

1 DAVID BROWN
2 F-55818
3 P.O. BOX 600 CIM/MSF
4 CHINO, CA. 91708-0600
5 IN PROPRIA PERSONA

FILED

2008 MAY -6 AM 8:47

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY Rm DEPUTY

NUNC PRO TUNC

MAY -1 2008

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10			
11	DAVID BROWN	}	CASE # <u>08 CV0017 JM (NLS)</u>
12	PETITIONER		MOTION AND DECLARATION FOR REQUEST
13			AN APPOINTMENT OF COUNSEL UNDER 28
14	VS		U.S.C. §2254, §1915 (D) AND 18 U.S.C. §3006
15			(A)
16			
17	M. E. POULOS (WARDEN) ET. AL;	}	
18	RESPONDENT (S)		

19
20 TO THE HONORABLE PRESIDING JUSTICE AND ALL PARTIES CONCERNED: THE
21 PETITIONER DAVID BROWN, NOW COMES TO MOVE FOR AN APPOINTMENT OF COUNSEL
22 REPRESENTATION. DUE TO THE COMPLEXITY OF THE ISSUES RAISED AND THAT
23 PETITIONER IS FINANCIALLY UNABLE TO OBTAIN ADEQUATE REPRESENTATION.
24 THE COURT MAY GRANT IN THE INTEREST OF JUSTICE, OR DUE PROCESS MAY
25 REQUIRE APPOINTMENT OF COUNSEL WHEN THE ISSUES ARE VERY COMPLEX
26 AT THE PUBLIC EXPENSE.
27
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DUE PROCESS MAY REQUIRE APPOINTMENT
OF COUNSEL WHEN THE ISSUES ARE VERY COMPLEX

AT THE PUBLIC EXPENSE

THOUGH IT IS NOT REQUIRED OF THE COURT TO APPOINT REPRESENTATION
TO A HABEAS CORPUS LITIGANT, THE COURT MAY DO SO IF IN IT'S DISCRETION
BELIEVE THAT THE INTEREST OF JUSTICE MAY BEST BE SERVED BY THE APPOINTMENT
OF COUNSEL. SEE DILLION V. U.S. (9TH CIR. 1962) 307 F.2D 445, AND
SEE HAWKIN V.BENNETT (8TH CIR. 1970) 423 F. 2D 948 ALSO SEE ESKRIDGE
V. RHAY (9TH CIR. (1965) 354 F. D 778, 782, 382 U.S. 996. THERE ARE
SOME ISSUES EXCEPTION AND DESERVING OF SPECIAL TREATMENT IN THE INTERESTS
OF JUSTICE.

1). THE PETITIONER IS FINANCIALLY UNABLE TO OBTAIN ADEQUATE
REPRESENTATION.

2). THE ISSUES ARGUED ARE VERY COMPLEX.

3). ON APPEAL, THE PETITIONER HAD APPOINTED COUNSEL.

THE COURT CAN MAKE AN ORDER THAT THE APPELLATE COUNSEL REPRESENT
THE PETITIONER IN THIS MATTER. IN THE INTEREST OF JUSTICE.

PLEASE GRANT AN ORDER FOR APPOINTMENT OF
COUNSEL TO PETITIONER

1 I, DAVID BROWN, DO DECLARE AS FOLLOWS:
2

3 1). THAT I AM THE DEFENDANT/PETITIONER IN SAID ACTION.

4 2). THAT I AM OVER THE AGE OF 18 YEARS

5 3). THAT I MAKE THIS DECLARATION IN SUPPORT OF THIS MOTION.

6 4). THAT I AM WITHOUT FUNDS/OR FINANCIALLY UNABLE TO OBTAIN
7 ADEQUATE REPRESENTATION.

8 5). THAT I BELIEVE THAT THE INTEREST OF JUSTICE WOULD BEST
9 BE SERVED BY AN APPOINTMENT OF COUNSEL.
10

11 I, DAVID BROWN, DO DECLARE THAT THE AFOREMENTIONED IS TRUE AND CORRECT
12 UNDER PENALTY OF PERJURY BY THE LAWS OF THE STATE OF CALIFORNIA.
13

14 DATE: 4-28-2008

RESPECTFULLY SUBMITTED

David C. Brown

DAVID C. BROWN

IN PROPRIA PERSONA
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THE LAW OFFICES OF JOHN L. STALEY
11770 Bernardo Plaza Court, Suite 305
San Diego, California 92128
Telephone (858) 613-1047
Facsimile (858) 613-0264

April 18, 2008

David C. Brown
F-55818
P.O. Box 600
Chino, CA 91708

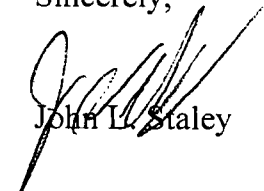
RE: People v. Brown

Dear Mr. Brown:

The Supreme Court of California has denied the petition for review I filed on your behalf. Enclosed is a copy of the order denying review. The denial of review by the California Supreme Court terminates my authority to represent you in this matter. I am therefore returning the record to you.

Your next option is to either file a petition for review with the United States Supreme Court or a petition for a writ of habeas corpus in the United States Federal District Court. You should consult the prison library for filing deadlines for these petitions. The United States Supreme Court has jurisdiction over the federal questions of law presented in your state appeal. However, the Court will only grant certiorari for "compelling reasons." Any petition to the United States Supreme Court must be filed within 90 days of the date the California Supreme Court denied your petition for review. The present deadline for filing a petition for a writ of habeas corpus in the United States District Court is one year from the date the petition for review was denied by the California Supreme Court. I have enclosed a copy of the order denying review. Please write to me if you have any questions.

Sincerely,



John L. Staley

Encl: Order

Reporter's Transcripts, Volumes II, V, VII

The remaining portion of the record will follow in two boxes.

THE LAW OFFICE OF JOHN L. STALEY
11770 Bernardo Plaza Court, Suite 305
San Diego, CA 92128
Telephone: (858) 613-1047
Facsimile: (858) 613-0264

March 24, 2008

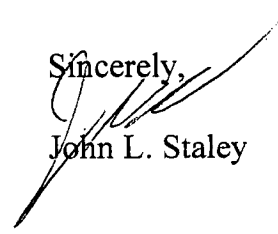
David C. Brown
F55818
P.O. Box 600
Chino, CA 91708

RE: Appeal

Dear Mr. Brown:

It appears that you prematurely filed your federal writ of habeas corpus. You have not exhausted your state court remedies because the California Supreme Court has not yet denied your petition for review. Your petition will most likely be dismissed without prejudice. I am required to keep custody of the record on appeal until the appeal process is over. The Supreme Court should not take very long to rule on the petition. I saw the deadlines in the order and you have some time before you have to respond. Let's see what happens on the petition for review in the next three weeks and we will then try to figure out what to do from that point. I understand your need for the records to pursue a federal writ of habeas corpus and will try to assist you.

Sincerely,


John L. Staley

Court of Appeal, Fourth Appellate District, Div. 1 - No. D050139
S161395

IN THE SUPREME COURT OF CALIFORNIA

En Banc

THE PEOPLE, Plaintiff and Respondent,

v.

DAVID C. BROWN, Defendant and Appellant.

The petition for review is denied.

George, C.J., was absent and did not participate.

**SUPREME COURT
FILED**

APR 16 2008

Frederick K. Ohlrich Clerk

Deputy

WERDEGAR
Acting Chief Justice

S159365

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re DAVID C. BROWN on Habeas Corpus

The petition for writ of habeas corpus is denied. (See *In re Miller* (1941) 17 Cal.2d 734; *In re Clark* (1993) 5 Cal.4th 750; *In re Dixon* (1953) 41 Cal.2d 756.)

George, C. J., was absent and did not participate.

**SUPREME COURT
FILED**

APR 23 2008

Frederick K. Ohlrich Clerk

Deputy

WERDEGAR

Acting Chief Justice

S157848

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re DAVID C. BROWN on Habeas Corpus

The petition for writ of habeas corpus is denied. (See *In re Clark* (1993) 5 Cal.4th 750; *In re Waltreus* (1965) 62 Cal.2d 218; *In re Miller* (1941) 17 Cal.2d 734; *In re Dixon* (1953) 41 Cal.2d 756.)

George, C. J., was absent and did not participate.

SUPREME COURT
FILED

APR 23 2008

Frederick K. Ohlrich Clerk

Deputy

WERDEGAR

Acting Chief Justice

DECLARATION OF

(VALENCIA CASTELLA WALLACE)
DOB 01/05/51

I declare and verify that the following information in regards to the arrest of David Brown on 10/15/04 by the San Diego Police Department is true and correct:

The last time I saw David Brown was in October 2003, during the evening hours in the upper "Quad" area of the Bank of America at 4th & B St. in downtown San Diego. I had been sitting on a bench near the stairway in the upper "Quad" area for approximately two hours. As I sat on the bench I noticed a ten dollar bill lying next to me on the bench. I picked it up and kept it.

About two hours later Mr. Brown approached me and asked if I had seen some guy that I don't remember the name of or he asked for someone I didn't know. I told Mr. Brown I didn't know where this person was so we talked for a few minutes and he then walked away from me and went down the stairs to the street level. He returned a few minutes later and walked over to the railing area. Suddenly Mr. Brown was "rushed" by SDPD Officers, arrested and then taken away.

At no time during my contact with Mr. Brown did he give me any money, drugs or ask about drugs during the time we talked.

The San Diego Police did talk to me after they arrested Mr. Brown and I gave them the ten dollar bill I found on the bench. I told them I had found the money on the bench prior to Mr. Brown meeting and talking with me.

I declare under penalty of perjury that the forgoing is true and correct to the best of my information and belief. Executed on this 28th day of June, 2004, at San Diego, California.

Valencia Wallace

Valencia C. Wallace
Declarant

6-28-04
Date

Henry S. McPherson
Witness

6/28/04
Date

**CALIFORNIA INSTITUTION FOR MEN
PROOF OF SERVICE BY MAIL**

(C.C.P. §1013a; §2015.5; Fed.R.Civ.P. 5; 28 U.S.C. 1746)

I am over the age of eighteen years, a citizen of the United States, a resident of the State of California, (A) **and / and not** a party to the within action. My mailing address is: P.O. BOX 600, CHINO, CA 91708-0600.

On the following date: (B) DAVID BROWN 4-28-08, I served the following document(s): (C)

① MOTION AND DECLARATION FOR REQUEST FOR REPRESENTATION /
COUNSEL ② A LETTER STATING THAT THERE WILL BE A TRAVERSE

On the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, addressed as follows to the following parties: (D)

U.S. DISTRICT COURT (SOUTHERN -
DISTRICT) 880 FRONT ST. RM # 4290
SAN DIEGO, CA 92101

OFFICE OF ATTORNEY GENERAL
110 WEST "A" STREET, STE #1100
P.O. BOX 85266
SAN DIEGO, CA 92186-5266

I am readily familiar with the normal business practices for collection and processing of correspondence and other materials for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, in a sealed envelope with postage fully prepaid, it is deposited in a box so provided at the correctional institution in which I am presently confined.

I certify (or declare) under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(E) Name: DAVID BROWN CDCR#: F-55818

Signed: David L. Brown Dated: 4-28-2008

CIM MAILROOM ACKNOWLEDGEMENT OF MAILING

DATED: 4/29/08 STAFF: DM

SIGNED: _____